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20090241

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

0 2 SEP 2009

Charles F. Webster
Equus Beds ASR Project DEIS
U.S. Bureau of Reclamation
Oklahoma-Texas Area Office
5924 NW 2nd Street, Suite 200
Oklahoma City, OK 73127

Dear Mr. Webster:

RE: Review of Draft Environmental Impact Statement for Equus Beds ASR Project, Sedgwick & Harvey Counties, Kansas, DEIS No. DES 09-27

The U.S. Environmental Protection Agency has reviewed the Environmental Impact Statement for Equus Beds ASR Project, Sedgwick & Harvey Counties, Kansas. Our review is provided pursuant to the National Environmental Policy Act 42 U.S.C. 4231, Council on Environmental Quality regulations 40 C.F.R. Parts 1500-1508, and Section 309 of the Clean Air Act. The DEIS was assigned the Council on Environmental Quality number 20090241.

Based on our overall review and the level of our comments, the EPA has rated the DEIS for this project LO (Lack of Objections). A copy of EPA's rating descriptions is provided as an enclosure to this letter.

Overall, the DSEIS adequately identifies potential environmental and human health impacts. Though the environmental impacts included in the DEIS were overall minimal, the following comments focus on minimization and mitigation of these impacts and provide additional information related to the project:

Rock Shelters

On page 87, there is one discrepancy regarding Rock Shelters in the project area. The second paragraph under the heading Recorded Sites and Types of Sites states that "the project area includes a variety of specific site types, including…rock shelters…" However, in the description paragraph under the Rock Shelters heading, it is stated that "No rock shelters sites have been reported within the project area." EPA recommends that the statements are amended in the FEIS to reflect the correct information.

Construction Impacts

Though mentioned briefly in the Air Quality section on page 115, there were not clearly defined mitigation measures regarding construction. While most mitigation procedures related to construction are fairly standard, you may want to include a brief but more detailed explanation of said procedures.

As you mentioned, though the completed project should have no direct or cumulative impact on air quality, construction activities may have the potential to impact the proximate air quality for the short term duration of said activities. EPA has the following recommendations regarding the construction period of the project:

- Use ultra low sulfur fuel (< 15 ppm) in all diesel engines
- Use add-on controls such as catalysts and particulate traps where suitable
- Minimize engine idling (e.g., 5-10 minutes/hour
- Use equipment that runs on clean, alternative fuels as much as possible
- Use updated construction equipment that was either manufactured after 1996 or retrofit to meet the 1996 emissions standards
- Prohibit engine tampering and require continuing adherence to manufacturers' recommendations
- Maintain engines in top running condition tuned to manufacturers' specifications
- Phase project construction to minimize exposed surface areas
- Reduce speeds to 10 and 15 mpg in construction zones
- Conduct unannounced site inspections to ensure compliance
- Locate haul truck routes and staging areas away from sensitive population centers

Wetlands

In the Biological Resources section of the DEIS, Wetlands are addressed on page 123. It is stated that construction would be routed around wetlands to the maximum extent practicable and where these options are unavailable or inadequate to avoid impacts, the repair and/or replacement of wetlands would be necessary and that no other mitigation is needed. However, this description does not indicate whether any of the wetlands that could be potentially impacted are jurisdictional, or protected under the Clean Water Act Section 404.

In the event that there are jurisdictional wetlands impacted by the proposed action, we recommend that any mitigation should occur in the same HUC 8 or smaller watershed as the location of the project impacts. If changes occur in the project purpose, need, alternatives, or impacts between now and the time of issuance on Public Notice by the Corps of Engineers, EPA's 404 program reserves the ability to comment further on this project. Information may be generated through the 404 public interest review process that was not documented during the EIS process and should be considered in the final decision. This could include changes in regulation or processes, advances in the knowledge of the resources to be impacted, discovery of populations of threatened or endangered species, new best management practices, and/or improvement in stream or wetland restoration science.

Geology & Groundwater

Comments stemming from consultation with our WWPD/Drinking Water Division include the following. It is stated in the second paragraph on page 44 that "The only physical properties with regulatory criteria are TDS, pH and laboratory turbidity." Though a minor point, it might be technically safer to say "physical-chemical properties" instead of just "physical," as it can be argued that pH, for instance, is a chemical property because it is defined as the negative logarithm of the hydrogen-ion activity in water. It can also be argued too that, apart from conductivity being a function of Total Dissolved Solids (TDS), TDS itself is not necessarily a "physical property" because TDS results from chemical and biochemical interactions between groundwater and geological materials through which it flows, and to a lesser extent from contributions from the atmosphere and surface-water bodies. As a result, groundwater contains a wide variety of dissolved inorganic chemical constituents in various concentrations.

The phrase "regulatory criteria" is vague. EPA recommends clarification of what "regulatory criteria" is referenced and make sure it is appropriate and relevant. There are national surface Water Quality Criteria which have been established under the authority of the Clean Water Act (CWA) for a number of contaminants, and there are also national criteria (or drinking water standards) for a number of contaminants in the form of Maximum Contaminant Levels (MCLs) that have been established under the authority of the Safe Drinking Water Act (SDWA) which apply to public water systems.

Also in paragraph two on page 44, as a matter of syntax, EPA suggests a minor modification of the following sentence, as follows: "Some sample values fell outside of EPA's (2004) Secondary Drinking Water Standard **range for pH** of 6.5 (slightly acidic) to 8.5 (slightly basic)."

In the final paragraph on page 110, EPA suggests clarification that water quality degradation from brines is attributable, in part, to "historic poor management" of brines from salt-mining and oil field production, prior to enactment of laws and regulations designed to prevent future such mismanagement of brine waste.

In regards to the last paragraph on page 112, in addition to, or in an effort to reduce the need for PAC to remove additional amounts of atrazine during primary herbicide application season, EPA would also like to include a recommendation that the City of Wichita link up with NRCS and/or the Cooperative Extension Service to promote Best Management Practices (BMPs) by area growers to prevent improper and/or injudicious use of atrazine and nitrates in the project area.

Thank you for the opportunity to provide our comments regarding this project. If you have any questions, please contact me at 913-551-7565, or via email at tucker.amber@epa.gov, or you may contact Joe Cothern, NEPA Team Leader, at 913-551-7148 or via email at cothern.joe@epa.gov.

Sincerely,

Amber Tucker

Amber Tucker
NEPA Reviewer
Environmental Services Division

Enclosure

Draft Environmental Impact Statement Rating Definitions

Environmental Impact of the Action

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.